

To: The Planning Board, Rick Taintor, Todd Selig, Karen Edwards

From: Kay Morgan, 16 Valentine Hill Rd., Durham

Date: 3/18/2021

There are two reasons why you must deny a Shoreland/Wetland Conditional Use permit to Colonial Durham Associates for their current proposal do redevelop Mill Plaza.

1. The proposal before you from Colonial Durham Associates (and every one of its proposals since 2015) is in violation of one of the major stipulations of the 2015 legal settlement with the Town of Durham. That stipulation (Section 1 d) states quite clearly “The Revised Application will provide for proposed buildings and vehicular roads outside of the shoreline and wetland buffers such that variances from town ordinances are not required and the buffers are maintained by the property owner.” (My emphasis)

2. The Conservation Commission has done its due diligence and has recommended that the CDA be denied a Conditional Use permit because their proposal does not meet the requirements of the non-tidal College Brook Wetland buffer requirement as laid out in Sec. 175-70 of the WCOD Ordinance (Article XIII: 1175-59(A)).

CDA Attorney Pollack can say that their parking lot line is “grandfathered in,” but he can read the Legal settlement above as well as I can. Where is it written that any part of the Plaza is “grandfathered in”?

CDA can offer \$25,000 for help on restoration of College Brook in exchange for allowing them to ignore the 75 foot buffer, but that is not a quid pro quo which is possible under the terms of the settlement or under the Zoning ordinance which applies in this instance.

Any other reading of these two points constitutes a gross failure to recognize the reality of the situation. Nothing says that CDA can't develop a proposal which fits within the parameters required by both the legal settlement and the zoning ordinances. These are designed to protect our fragile College Brook environment which has, to date, been degraded by this very entity that seeks to perpetuate the degradation, notwithstanding their “offer” of cash and willingness to plant some shrubs. They have a poor track record to date on stewardship of the parcel known to us as Mill Plaza.

I would hope that contrary to what we've witnessed so far, Contract Planner Rick Taintor would be advising you regarding the necessity of applying the 2015 legal settlement and Durham's Wetland Zoning regulations as you start to seriously discuss and document your findings of fact in this matter, as is required under 175-23 A: Approval Criteria. Please do not let CDA wear you down with their intransigent refusal to adhere to the legal Settlement and Durham Zoning regulations. The people of Durham count on you to protect our interests, our Master Plan, and our natural resources. If not you, then who?